In the Supreme Court of the United States

OCTOBER TERM, 1956

No. 11, Original

UNITED STATES OF AMERICA, PLAINTIFF

v.

STATE OF LOUISIANA

MOTION TO DISMISS AS MOOT THE APPLICATION OF THE ANDERSON-PRICHARD OIL CORPORATION FOR EXTRAORDINARY RELIEF AND FOR AMENDMENT OR INTERPRETATION OF DECREE

The United States moves the Court to dismiss the application of the Anderson-Prichard Oil Corporation for extraordinary relief and for amendment or interpretation of decree. This motion is made upon the ground that the question presented by the application has become moot.

Respectfully,

J. LEE RANKIN,
Solicitor General.

OCTOBER 1956.

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On October 12, 1956, the United States and the State of Louisiana entered into a general agreement providing for new leasing and drilling in the disputed area, and filed it with the Court. That agreement permits new drilling by lessees who bring themselves within its terms. The Anderson-Prichard Oil Corporation has filed with the United States Oil and Gas Supervisor, Geological Survey, in New Orleans, Louisiana, and with the Secretary of the State Mineral Board, State Capitol, Baton Rouge, Louisiana, the documents necessary to bring itself within the terms of the agreement as provided by paragraph 5 (b) thereof. On October 15, 1956, the United States accordingly gave its approval, as sought by the applicant, to the drilling of the proposed well. The applicant having thus secured the permission to drill which it sought, the application has become moot and should be dismissed.

Respectfully submitted.

J. LEE RANKIN,
Solicitor General.

OCTOBER 1956.

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UNITED STATES OF AMERICA,
Plaintiff

v.

STATE OF LOUISIANA

ANSWER OF THE STATE OF LOUISIANA

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UNITED STATES OF AMERICA,
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ANSWER OF THE STATE OF LOUISIANA

Now comes the State of Louisiana, defendant herein, through its Attorney General and other designated counsel, and reserving all rights under its objections to the filing of the complaint herein, and its motion to dismiss on jurisdictional grounds; and without in any manner consenting to be sued, or submitting itself voluntarily to the jurisdiction of this Court, answers said complaint as follows:

FIRST DEFENSE

Defendant denies each and every allegation of the complaint except as may be hereinafter admitted:

I

It is admitted that Plaintiff seeks to invoke the jurisdiction of this Court as alleged in paragraph I of the complaint, but Louisiana shows that its boundaries in the Gulf of Mexico, extending to the edge of the Continental Shelf, have already been recognized and established by the political branches of the United States Government as will be hereinafter shown.

II

The allegations of paragraph II are denied, and defendant avers that the United States has never had dominion and power over the lands, minerals and other things underlying the Gulf of Mexico, nor has it ever had any right, title to, interest in, or possession of the same, except to hold it in trust, as a part of the Louisiana Territory, for the State of Louisiana to be thereafter formed and admitted to the Union, as required by the Treaty of Paris of April 30, 1803 (8 Stat. 200). Defendant further avers that the United States has no proprietary jurisdiction over the submerged lands and that the only dominion and control over the waters of the Gulf of Mexico possessed by the federal government relate to the regulation and control of the use of the same for purposes of interstate and foreign commerce, navigation, and the national defense, which powers the State of Louisiana has never questioned. Further answering, the State of Louisiana shows that it has the full fee simple title to and ownership of the

lands, minerals and other things underlying the Gulf of Mexico, extending seaward from its coast, as hereinafter shown.

III

It is admitted that a decree was entered on December 11, 1950, in the case of United States v. Louisiana, 340 U.S. 399, by this Court, which decree speaks for itself, but defendant shows that the theory upon which the opinion and decree of the Court was based, and the effect of said decree have been nullified and superseded by the provisions of Public Law 31 of the 83rd Congress, known as the Submerged Lands Act, enacted May 22, 1953, (67 Stat. 29, 43 U.S.C. 1301 et seq) and by the provisions of the Outer Continental Shelf Lands Act (67 Stat. 462, 43 U.S.C. 1311). The first named act disclaims on the part of the United States any title or right in said submerged lands and the resources thereof, and the second act referred to asserts the extent of the territorial boundaries of the United States as including the Outer Continental Shelf. The fact that said decree has been so nullified, and that the States must be held to have always had title to submerged lands and resources have been judicially recognized.

Superior Oil Co. v. Fontenot, 213 F. 2d 565, 569 Cert. Den. 348 U.S. 837, 99 L.Ed. 660.

Further answering, defendant shows that the Outer Continental Shelf Lands Act only required

lessees claiming leases from the State to make payment to the Secretary of Interior of royalties, rentals and other payments which might be claimed by the United States from lands leased by the State subsequent to June 5, 1950 and neither of the Acts of Congress referred to in this paragraph requires that any payment of any kind whatsoever be made by the State to the Federal Government.

IV

Paragraph IV of the complaint is denied as written, and the defendant avers that in the Submerged Lands Act Congress recognized the fact that the United States had no right, title or interest in the lands, minerals and other things underlying the Gulf of Mexico, and in Section 3 of said Act (67 Stat. 30, 43 U.S.C. 1311) released and relinquished "all right, title and interest of the United States, *if any it has*, in and to said lands, improvements, and natural resources."

The legislative history of the Submerged Lands Act and the reports of the Committees of Congress relating thereto specifically state that throughout the history of this Nation the respective States have been recognized and acknowledged to be the sovereign owners of the land beneath navigable waters within their boundaries, including the marginal seas, and of the natural resources within such lands and waters. See House Report No. 215, 83rd Congress, 1st Sess. p. 33 et seq. and Senate Report No. 133 p. 21, 54-60. (U.S.

Congressional & Administrative News, 83rd Congress, 1st Sess. 1953, Vol. 2, pp 1398-9, 1409-10, 1417, 1419, 1428-30, 1481, 1507-8, 1517-19)

To the extent that the said Submerged Lands Act and Outer Continental Shelf Lands Act may be construed to limit and restrict the right of Louisiana to extend its boundaries or title to the subsoil and minerals in the Gulf of Mexico seaward to the edge of the Continental Shelf and to the extent that the Outer Continental Shelf Lands Act purports to convey, or to assert or recognize, any property, right or title in the said subsoil or minerals in or to the United States, defendant shows that said acts are unconstitutional, null and void, if so construed, for the following reasons:

a. To the extent that said acts permit the federal government to exercise proprietary rights in said submerged lands and resources, they are violative of the Treaty of Paris entered into by the United States with France on April 30, 1803 for the cession of Louisiana to the United States, whereby the latter obligated itself to incorporate the purchased territory of Louisiana into the Union according to the principles of the federal constitution, and to maintain the inhabitants of Louisiana in their property in the territory with all its rights and appurtenances in the same manner as they had been acquired by the French Republic, and to the same extent as when this territory was in the hands of Spain, and that it had when France possessed it.

(8 Stat. 200). Congress was bound by the Treaty of Paris to hold the Louisiana Territory in trust for the states to be formed from it, and could not, and did not attempt to retain any federal domain southward from Louisiana in the Gulf of Mexico when it established the State of Louisiana in 1812. The declarations of the executive in 1945, and of the Congress in 1953, that the southern boundary of the United States extended further seaward than it had been previously recognized could not legally create a new and separate federal domain, or deprive Louisiana of its sovereign rights and claims to the Continental Shelf which is a part of the land mass of the Coastal State.

b. Said acts, to the extent that they may recognize federal ownership of said lands and resources, are violative of Article IV Section 3 and 4 of the United States Constitution. To such extent said acts would unlawfully permit the federal government to exercise the prerogatives of the crown in a monarchial form of government, would permit it to invade property and property rights guaranteed to the State of Louisiana, and would unlawfully change and restrict the title and boundaries of the State without its consent.

c. Insofar as said acts confer or recognize title and property rights in the United States and limit or restrict the boundaries or the title of Louisiana in said submerged lands and mineral resources of the Continental Shelf, they exceed and go beyond the powers of the federal government enumerated in the United

States Constitution and are therefore in conflict with the Ninth Amendment thereto.

d. Said acts insofar as they attempt to grant to the United States title and ownership of the subsoil and mineral resources of the Continental Shelf violate the Tenth Amendment of the United States Constitution which reserves to the States all powers and rights not specifically granted to the United States. Louisiana has not relinquished to the federal government any title to, or ownership or right of possession of the seabed, subsoil and mineral resources of the Continental Shelf within its boundaries.

V

Paragraph V is denied, both as to the allegations of facts and the conclusions of law, and defendant avers that its southern boundary is, and by necessity has always been, coextensive with the southern boundary of the United States acquired by it in the Treaty of Paris on April 30, 1803.

VI

Paragraph VI is denied in its entirety and defendant avers that the United States is not entitled to possession, dominion or proprietary power over the lands, minerals and other things underlying the Gulf of Mexico, lying more than three miles seaward from the ordinary low-water mark and the outer limits of inland waters, and is not entitled to any accounting what-

ever from the State of Louisiana by virtue of the decree of this Court described in this paragraph.

VII

Louisiana admits the first subparagraph of paragraph VII, and admits that the Secretary of the Interior has issued leases on submerged tracts of land belonging to the State of Louisiana, and that defendant will continue to assert its title thereto, but in all other respects the allegations of the second subparagraph of paragraph VII of the complaint are denied. Defendant avers that the Secretary of the Interior, his officers and agents in leasing the lands referred to in his paragraph have trespassed upon and slandered the title of the State of Louisiana to submerged lands within the historic boundaries of Louisiana. Said leases were made over the protest of the State of Louisiana and with full knowledge of its claim and title thereto. In making said leases said officials and agents of the Department of the Interior acted without statutory authority and in violation of positive enactments of the United States Congress.

Defendant further shows that the United States, its officers, agents, and lessees have unlawfully produced and transported oil, gas and other minerals from said properties belonging to Louisiana, and the plaintiff has received money and other considerations from its said lessees in the form of cash bonuses, rentals, and royalties for all of which it should make an accounting to the State of Louisiana.

VIII

No paragraph VIII appears in the complaint. However, in further answer to the preceding paragraphs thereof, Louisiana affirmatively shows:

a. The extent of the territorial jurisdiction of Louisiana over the Gulf of Mexico is that of an independent nation subject only to the powers expressly granted to the United States, and the boundaries of the United States are co-extensive with the boundaries of the separate sovereign States. The Federal Government accordingly has no right or power to deprive Louisiana or any other State of the benefit of an extension of national sovereignty into territory contiguous to, or appertaining to any border or coastal state.

Harcourt v. Gaillard, 12 Wheat 523, 6 L.Ed. 716,

Commonwealth of Mass. v. Manchester, 152 Mass. 230, 25 N.E. 113, 116 (1890), Affirmed 139 U.S. 240, 35 L.Ed. 167,

Dred Scott v. Sanford, 19 How. 393, 446-9, 15 L.Ed. 691, 718-719,

Brown v. Grant, 116 U.S. 207, 212, 29 L.Ed. 598, Legislative History of the Submerged Lands Act Senate Report No. 133, p. 59-60 (83rd Cong. 1st Sess.)

b. Presidential Proclamation No. 2667 (10 FR 12303) issued by the President of the United States on September 28, 1945 and the Submerged Lands Act of

May 22, 1953 (43 U.S.C. 1301 et seq.) and the Outer Continental Shelf Lands Act of August 7, 1953 (43 USC 1311 et seq.), assert jurisdiction over, and title to, the subsoil and the seabed and natural resources of the entire Continental Shelf which is an extension of the land mass of the Coastal States.

c. No foreign nation has questioned or disputed the acts of the United States asserting jurisdiction over the subsoil, seabed, and the natural resources of, on, and under the Continental Shelf, but on the contrary similar claims to the Continental Shelf have been, and are now being made by all of the Central and South American Nations. To the extent that the said Acts of the United States assert ownership or title to the subsoil, seabed, and natural resources in the federal government and seek to divest the coastal states of their title and right of possession thereof, and to the extent that they limit or restrict the right of the State of Louisiana to extend its boundaries to the edge of the Continental Shelf in the Gulf of Mexico, said acts are unconstitutional, null and void for the reasons set forth in the preceding and succeeding paragraphs of this answer.

d. By Act 55 of 1938 the Legislature of Louisiana declared the boundaries of the State to be 27 miles seaward of its shore line which boundaries were then considered to be co-extensive with those of the United States under International Law, and by Act 33 of 1954 the State redefined its boundaries generally further

seaward, and three leagues beyond the line of demarcation between its inland waters and the open sea, as fixed by the United States pursuant to an Act of Congress of February 10, 1807 and of February 19, 1895 (28 Stat. 672, 33 U.S.C. 151), the said boundary defined in Louisiana Act 33 of 1954 including a large portion of the Continental Shelf. The said Acts of Louisiana establishing and redefining its boundaries as aforesaid are in accord with accepted principles of International Law and the policies of the United States set forth hereinabove, and in any event are in accord with such principles and policies insofar as they relate to the subsoil, seabed, and the natural resources underlying the Gulf of Mexico. In this connection this Court in *United States v. Louisiana*, 339 US 699, 70 S. Ct. 914, 94 L.Ed. 1216, stated that "Louisiana's enlargement of her boundary emphasizes the strength of the claim of the United States to this part of the ocean and the resources of the soil under that area, including oil." This is a correct statement to the extent that it recognizes the right of coastal states thus to assert their boundaries as a matter of International Law, and to the extent that it recognizes the right of the United States to extend its appropriate national jurisdiction and the enumerated powers conferred on it in the United States Constitution to the full limit of the boundaries of the several states of the union. The Court's said statement emphasizes that the boundaries of the United States and of Louisiana must be co-extensive.

IX

The allegations of paragraph IX are denied. Louisiana denies that there is any need for a settlement of plaintiff's claims in this Court, and further denies that the fundamental question in issue involves inquiry into and application of the foreign policy of the United States in a matter of peculiar importance and delicacy which is appropriately a subject for original adjudication by this Court. While the establishment of the outer boundaries of the United States is a political matter which might involve foreign policy, the said boundaries have already been established by the political branches of the government, as hereinabove shown. There is, therefore, no matter of foreign policy now involved, but only a dispute as to property rights between the United States and one of its sovereign states. This is clearly stated in Section 3 (b) of the Outer Continental Shelf Lands Act which specifically declares that the rights asserted in the Continental Shelf adjoining the Coastal States shall not prejudice the character of the coastal waters as high seas, or the rights of navigation and fishing therein by other nations. The Federal Government, accordingly, owes no greater duty to, and has no greater jurisdiction over the undersea area involved here than it does to the uplands, the tidelands, or the beds of the rivers and inland waters.

House Report No. 215, p. 38, 83rd Cong. 1st Sess.
Alabama v. Texas, 347 U.S. 276, 98 L.Ed. 695.

Louisiana has exercised jurisdiction and acts of ownership over said submerged lands since its admission into the Union, and has claimed and exercised exclusive rights thereto which have never been disputed by any foreign power, or by any officer, agent, or representative of the United States prior to the year 1949 when the present dispute began, as will be more fully shown on the trial of this cause.

SECOND DEFENSE

In the event that Louisiana's first defense be not sustained, then pleading in the alternative, Louisiana shows:

1. By virtue of the Treaty of Paris dated April 4, 1803, whereby the Louisiana Territory was ceded by France to United States its seaward boundary in the Gulf of Mexico extends to the 27th parallel of latitude, and the obligations of said Treaty require the United States to recognize said boundary. The said Treaty of Cession specifically required the United States to incorporate Louisiana into the Union according to the principles of the Federal Constitution, and to maintain its inhabitants in their property in the territory with all its rights and appurtenances in the same manner as they had been acquired by the French Republic, and to the extent that it had when this territory was in the hands of Spain, and that it had when France possessed it. French title to and possession of the Louisiana territory had its origin and was based upon the dis-

covery and proclamation of LaSalle on April 9, 1682, and by the said proclamation LaSalle took possession of Louisiana in the name of Louis XIV, King of France, declaring:

> "I, in virtue of the Commission of His Majesty which I hold in my hand . . . have taken, and do now take, in the name of His Majesty and of his successors to the Crown, possession of this country of Louisiana, the seas, harbors, ports, bays, adjacent straits . . . from the mouth of the great River . . . Mississippi . . . from its source . . . as far as its mouth in the sea, or Gulf of Mexico, about the 27th degree of the elevation of the North Pole and also to the Mouth of the River of Palms."

The claim thus made by France to the 27th parallel of latitude was not questioned by any nation during the period between 1682 when France possessed the Louisiana Territory and November 3, 1762, when France ceded this territory to Spain. Spanish title and possession of the full limits of the territory and its adjacent submerged lands and territorial waters was not disputed or questioned during this period, and in 1790 it was specifically recognized by Great Britian which at that time, together with Spain, owned and possessed the entire North American continent, with the exception of the thirteen colonies that gained their independence in 1783. This recognition of Spanish possession and ownership was expressed in the Treaty of Madrid between England and Spain signed at the Escurial on October 28, 1790 whereby both countries agreed to boundaries, both in North and

South America, extending ten leagues seaward into the Pacific Ocean and the South Seas, which latter seas included the Gulf of Mexico.

2. Pursuant to its obligation to incorporate the territory of Louisiana into the Union of States, the Congress of the United States set apart all of that portion of the Louisiana Purchase lying south of the 33rd degree of north latitude into the territory of Orleans (Act of March 26, 1804, 8th Cong., 1st Sess.). The said territory of Orleans which afterward became the State of Louisiana included all of the Louisiana territory south of the 33rd degree of north latitude without exception, and without excepting or reserving to the United States any title or ownership of the seas, bays, territorial waters and submerged lands possessed by France and Spain, and ceded to the United States in trust for the State to be formed out of the purchased and ceded territory. Likewise, the Act for the admission of Louisiana as a State into the Union did not except such territorial waters and submerged lands from the limits of the State of Louisiana (Act of April 8, 1812, 2 Stat. 70), but impliedly included the same. It is the settled jurisprudence of this Court that ownership of submerged lands in the sea is an attribute of sovereignty and if such lands are to be reserved from the territory of a newly admitted state by the transfer of sovereignty, the design to make this important change in this particular territory must be clearly indicated by appropriate terms, and must not be left for inference.

Martin v. Waddell, 16 Pet. 367, 413-416, 10 L. Ed. 997, 1014-15.

Alaska Pacific Fisheries v. U.S., 248 U.S. 78, 87-8, 39 S. Ct. 40, 63 L. Ed. 138, 140, 141.

3. Defendant shows that the Act of Congress admitting Louisiana to the Union described its limits as extending "to the Gulf of Mexico, thence bounded by the said Gulf to the place of beginning, including all islands within three leagues of the coast." If said Act of Admission be construed as describing the southern boundary of the State as a land boundary along the shore line of the Gulf, then in accordance with the established jurisprudence of this and other Courts, ownership of the submerged lands offshore in the Gulf of Mexico was necessarily implied and included in said description, in the absence of express provisions to the contrary.

Martin v. Waddell, 16 Pet. 367, 410, 416;

Van Brocklin v. Anderson, 117 U.S. 151, 168, 29 L. Ed. 845, 851;

Brown v. Grant, 116 U.S. 207, 212, 29 L. Ed. 598, 600;

Thurlow v. Mass., 5 How. 504, 12 L. Ed. 256;

Henderson v. Poindexter, 12 Wheat 530, 6 L. Ed. 718;

Rhode Island v. Mass., 12 Pet. 657, 9 L. Ed. 1233;

Shively v. Bowlby, 152 U.S. 1, 57, 58, 38 L. Ed. 331, 352.

It should therefore follow that Louisiana's seaward boundary by the Act of Admission extended to the full limit of the Louisiana purchase into the Gulf of Mexico to the 27th parallel of latitude, as claimed and possessed by France, and as provided by the Treaty of Cession in 1803.

THIRD DEFENSE

In the event that the Court should hold that the Federal Government owns a belt of land surrounding the territory of the coastal states wherein the States own no proprietary rights, and refuses to sustain Louisiana's claims hereinabove set forth, then pleading in the alternative, Louisiana shows:

1. In the event that the defenses set forth hereinabove in this and in the preceding paragraphs of this Answer are not sustained, then Louisiana shows in the alternative that its seaward boundaries extend at least three marine leagues from its coast into the Gulf of Mexico. In this connection Louisiana shows that its southern boundary has been adjudged by this Court to be a water boundary in the open sea, that its limits extend at least three marine leagues seaward from its coast line (*Louisiana v. Mississippi*, 202 U.S. 1, 50 L. Ed. 913) and said limits are drawn on the diagrams which are made a part of the Court's decision in that case.

2. Louisiana's boundaries extend to a line three leagues seaward of the line of demarcation between its inland waters and the open sea, as alleged in paragraph VIII of the First Defense hereinabove, and has lawfully established and redefined its boundaries thereto. Such determination of its said boundaries is not only justified for the reasons set forth in paragraph VIII but is also supported by the following facts:

3. By an Act of Congress of February 10, 1807, approved by Thos. Jefferson as President of the United States, authority was granted to the President of the United States for surveying the *coasts* of the United States within *20 leagues of any part of the shores of the United States.* In 1895 this authority was vested in the Secretary of the Treasury, when, by Act of Congress of February 19, 1895, c. 102, Section 2, 28 Stat. 672 (33 USC 151), the Secretary of the Treasury was authorized and directed to designate and define by suitable bearings or ranges with lighthouses, light vessels, buoys, and coast objects, the lines dividing the high seas from rivers, harbors, and inland waters.

By Section 4 of the Act of Congress of February 14, 1903, and Section 1 of the Act of Congress of March 4, 1913, this authority was vested in the Secretary of Commerce. By 1946 Reorganization Plan No. 3, Section 101, 104, effective July 16, 1946 (11 F. R. 7875), 60 Stat. 1097, the authority to establish, designate and define the coast line of the United States

under said Acts of Congress was vested in the Commandant of the Coast Guard.

Pursuant to the aforesaid Acts of Congress the line dividing Louisiana's inland waters from the high sea, or Gulf of Mexico, was designated and defined as shown by a map upon which the Commandant of the Coast Guard officially indicated said coast line in broken lines extending from the entrance to Mobile Bay to the Rio Grande River, including the entire coast line of the State of Louisiana.

4. Said coast line of Louisiana is designated and defined in CG-169, March 1, 1955, pp. 55-6 and 58, Sections 82.1 and 82.103. This action has definitive result for all times material to any issues involved in this case.

Section 82.95 designates and defines the coast line or outer boundary of the inland waters from Mobile, Ala. to Mississippi Passes, La., as follows:

> "Starting from a point which is located 1 mile, 90° true, from Mobile Point Lighthouse, a line drawn to Mobile Entrance Lighted Whistle Buoy 1; thence to Ship Island Lighthouse; thence to Chandeleur Lighthouse; thence in a curved line following the general trend of the seaward, high-water shore lines of the Chandeleur Islands to the southwesternmost extremity of Errol Shoal (Lat. 29°35.8′ N., Long. 89°00.8′ W.); thence to Pass a Loutre Lighted Whistle Buoy 4."

Section 82.103 designates and defines the coast line or outer boundary of inland waters from Mississippi Passes, La. to Sabine Pass, Tex., as follows:

> "A line drawn from Pass a Loutre Lighted Whistle Buoy 4 to South Pass Lighted Whistle Buoy 2; thence to Southwest Pass Entrance Midchannel lighted Whistle Buoy; thence to Ship Shoal Lighthouse; thence to Calcasieu Pass Lighted Whistle Buoy 1; thence to Sabine Pass Lighted Whistle Buoy 1."

5. The said coast line, or outer boundary of the inland waters of the State of Louisiana is also officially shown at the same locations as designated and defined by the agencies of the federal government authorized by the aforesaid Acts of Congress on U. S. Coast and Geodetic Charts Nos. 1270 and 1272 to 1279, both inclusive.

6. The Legislature of the State of Louisiana passed Act No. 33 of 1954 redefining its historic gulfward boundary by accepting and approving its coast line as designated and defined in accordance with applicable Acts of Congress, referred to in paragraph 2 above, and by stating that the Act of Congress of April 8, 1812, which admitted Louisiana as a State in the Union, defined and fixed its boundary at three leagues from coast into the Gulf of Mexico.

7. Certain portions of said coast line and certain bearings and markers delineating the same have been

specifically recognized by this Court as parts of the coast line of the State of Louisiana.

Louisiana v. Mississippi, 202 U.S. 1, 50 L. Ed. 913.

The Josephine, 3 Wall. (70 U.S.) 83, 18 L. Ed. 5.

FOURTH DEFENSE

Further pleading in the alternative, Louisiana avers that its boundaries extend at least three marine leagues seaward into the Gulf of Mexico for the following reasons:

1. At the time of its admission into the Union in 1812 all nations possessing territories in the Western Hemisphere agreed by treaties and otherwise that the ownership of submerged lands and territorial waters by the coastal states extended seaward at least three marine leagues and all such claims were acquiesced in by the other maritime nations of the world and by the United States as will be more fully shown on the trial hereof.

2. The United States has at all times agreed upon and recognized the fact that States and nations bordering on the Gulf of Mexico own the marginal seas and the sub-soil thereof to a distance of at least three leagues from their shores, and has never asserted that State ownership consists of any lesser width or extent in such submerged lands and the waters above them.

Treaties and declarations to this effect have been made by the United States over a long period of time and include among others the following:

Treaty with Spain of February 22, 1819, 8 Stat. 252,

Treaty with Mexico of January 12, 1828, 8 Stat. 372,

Resolution of Congress recognizing independence of Texas, March 1, 1837, Cong. Globe, 24th Cong. 2d Sess. 270,

Joint Resolution of Congress annexing State of Texas, March 1, 1845, 5 Stat. 797,

Treaty of Guadalupe Hidalgo between the United States and Mexico, February 2, 1848, 9 Stat. 922, 923,

Gadsden Treaty with Mexico, December 30, 1853, Cong. Globe, 33rd Cong. 1st Sess. 1568, 10 Stat. 1031,

Act of Congress approving the Constitution of the State of Florida, February 25, 1868, 15 Stat. 73.

3. The above described treaties with the Republic of Mexico in which the parties agreed that the boundaries of the respective nations extended three leagues into the Gulf of Mexico have been reaffirmed and readopted on numerous occasions, including the following:

Boundary Convention with Mexico, Concluded July 29, 1882, Ratified by Senate, August 8, 1882, Proclaimed March 5, 1883;

Boundary Convention with Mexico, Concluded March 1, 1889, Ratified by Senate May 7, 1890, Proclaimed December 26, 1890;

Boundary Convention with Mexico, Concluded March 20, 1905, Ratified by Senate, February 28, 1907, Proclaimed June 5, 1907;

Letter from Department of State to Ambassador Daniels dated May 23, 1936, relative to Mexico's claim to jurisdiction three leagues into the Gulf of Mexico, Department of State files 812.0145/16, Hackworth's Digest of International Law, Vol. 1, pages 639-642.

4. Said treaties and conventions fixing the boundaries of the coastal States in the Gulf of Mexico three leagues seaward have been accepted by the family of nations and specifically recognized by the great maritime nations of the world since Louisiana was admitted to the Union in 1812.

5. If the Court should overrule Louisiana's pleas of unconstitutionality directed to the provisions of the Submerged Lands Act and of the Outer Continental Shelf Lands Act to the extent that they limit the State's boundaries to 3 leagues from coast in the Gulf of Mexico, then in the alternative Louisiana shows that pursuant to Article IV of the Constitution and the principles on which the nation has been founded, the State of Louisiana is entitled to sovereignty on an equal footing with the States of Texas and Florida whose boundaries are recognized as 3 leagues seaward in the

Gulf of Mexico and other States bordering said Gulf whose boundaries extend at least that far.

United States v. Texas, 339 U.S. 707, 94 L. Ed. 1221

FIFTH DEFENSE

1. Acting in conformity with and under its fee simple title and sovereignty and, at all times herein material, since the admission of Louisiana into the Union in 1812, the State has exercised continuous, undisturbed and unchallenged sovereignty over, and has had open, complete, notorious, peaceful, unquestioned, undisturbed, exclusive and unchallenged possession of all the lands, minerals and other things underlying the Gulf of Mexico within the area described in the complaint; and such sovereignty and possession have been, and are now being exercised and maintained subject to, consistently with, and with full recognition of the Constitutional powers of the United States; and as a result of the exercise of such sovereignty and exclusive possession by the State of Louisiana for more than one hundred years after the admission of the State into the Union in 1812 there has existed the general conviction and agreement that Louisiana has possessed, and now has territorial jurisdiction and sovereignty over, and fee simple title to the said lands, minerals and other things in said area, and a conclusive presumption of such title results therefrom.

2. Sovereignty over and possession of said submerged lands and resources has consisted of the passing

and enforcing of laws regulating fishing, trawling and dredging of said submerged lands, the granting of leases for the cultivation, propagation and taking of oysters, fish and shrimp, for the dredging and removal of sand, gravel and shells, and for the leasing and development of said lands for oil, gas and other minerals. For such purposes the State has organized, maintained and operated a State Land Office, a Department of Conservation, a Department of Wild Life & Fisheries, a Mineral Board, a Stream Control Commission, and other State agencies to exercise continual jurisdiction and supervision over said lands for said purposes. Certain of said agencies have maintained fleets of boats and watercraft and equipment, and employed necessary personnel to adequately police said areas, to regulate activities of State lessees and licensees therein, and all of said agencies have administered and enforced Louisiana's laws and police regulations relating thereto as they respectively applied to such agencies. By reason of such undisputed and exclusive possession and continuous sovereign jurisdiction over said lands, from time immemorial, Louisiana has in any event a prescriptive right to the lands, minerals and other things underlying the Gulf of Mexico, and the United States has no right or title thereto.

3. The United States, prior to the discovery of oil and gas under said lands, brought about by the efforts of the State of Louisiana, its agents and lessees,

has never asserted or claimed, nor have the federal executive, legislative or judicial departments ever believed or asserted that the United States possessed any proprietary right, title or interest in the lands, resources and other things underlying the waters of the Gulf of Mexico, and the present claim of the United States thereto is one made in its proprietary as distinguished from its governmental capacity. In view of the Law of Nations on this subject and the decisions of this Court relating thereto, there is a conclusive presumption that plaintiff has no title or proprietary rights in said lands which have been in the physical and exclusive possession of the defendant from time immemorial.

SIXTH DEFENSE

1. The United States has on numerous occasions, and over a great period of time, recognized Louisiana's title and proprietary rights of ownership and possession of said lands, and has requested the Chief Executive of the State to secure the passage of laws which would permit the federal government to acquire sites therein for game and fish preserves and for light houses, jetties and other aids to navigation. Pursuant to said requests, the Legislature of Louisiana has from time to time, during the 144 years of its existence as a state of the Union, passed such laws and permitted grants of sites to the United States in the Gulf of Mexico on the continental shelf for such purposes. Accordingly, the plaintiff has acquiesced in, and by its

conduct from time immemorial recognized Louisiana's title and possession of said lands, and disclaimed any federal interest therein other than for the purposes of commerce, navigation and National Defense, which are the only powers or rights granted to plaintiff by the United States Constitution in the waters in the Gulf of Mexico, none being granted in the lands underlying the waters thereof.

2. By reason of the foregoing, the United States has acquiesced in Louisiana's title and ownership of the submerged lands referred to in its complaint. Plaintiff is therefore estopped to assert any contrary claim.

3. In any event the acts of the plaintiff, set forth hereinabove, constitute evidence of the intent of Congress in describing Louisiana's boundaries as "including all islands within three leagues of its coast," and are interpretive of the Act of Congress admitting Louisiana to the Union to mean that Louisiana has title to the waters, submerged lands and resources lying seaward from its coast as hereinabove set forth.

SEVENTH DEFENSE

Plaintiff and defendant have both from time immemorial interpreted and applied the Act of Congress admitting Louisiana to the Union as including within Louisiana's boundaries the marginal seas and lands and resources thereunder as shown hereinabove, and relying on such interpretation and application of the

statute, Louisiana has for many years expended large sums of money for the administration, regulation and conservation of the fish, oysters, shrimp and natural resources in the Gulf of Mexico and its submerged lands, and the State has incurred debt and issued obligations for purposes of education, the building of highways, bridges, hospitals, and other facilities for the promotion of the welfare of its people and for the retirement of the public debt. By reason of plaintiff's long continued acquiescence and acknowledgment of Louisiana's right and title to said seas, submerged lands and resources, and defendant's reliance thereon to its detriment, plaintiff is now estopped to deny Louisiana's title and right of possession thereto.

EIGHTH DEFENSE

1. In the event that this Court does maintain and affirm that the United States has a right to sue the State of Louisiana without its consent concerning the matters set forth in the complaint, then defendant shows that the cause should not be determined in piecemeal fashion, but should be completely disposed of by taking evidence not only to determine the extent of the marginal belt owned by the State in the Gulf of Mexico, but by the taking of evidence to determine also the location of Louisiana's coast line, so as to adjudicate precisely the inner and outer limits of the submerged lands owned by the State.

2. Further answering, the defendant shows that a determination of the questions presented by the

complaint as to the extent of the territorial seas and submerged lands belonging to Louisiana and a determination of the outer and inner boundaries of said area will require the taking of evidence and the introduction of foreign maps, charts, treaties, official and historical documents and records of the State of Louisiana, including those of the State Land Office, the Department of Conservation, and the State Mineral Board and other State offices and agencies, as well as the oral testimony of witnesses. The defendant has heretofore taken the testimony of Dr. James P. Morgan relating to the historical boundaries of Louisiana, in Docket No. 14, Original, October Term, 1955, *In The Matter Of The Perpetuation Of The Testimony of Dr. James P. Morgan*, which said evidence is on file in this Court, and additional evidence will be offered by the State of Louisiana as to both the outer and inner limits of the submerged lands belonging to Louisiana in the Gulf of Mexico.

3. If the Court should find that Louisiana's boundaries should be measured from its shore line, which defendant denies, then Louisiana shows that the shallowness of the sea, the many islands, bays, inlets, and the irregular indentations in its shore line together with the frequent changes in the location of said shore line, would make it necessary that such base-line run from headland to headland and by straight lines from the outermost islands and headlands, all of which will require the taking of the testimony of witnesses.

4. Section 4 (b) of the Outer Continental Shelf Lands Act confers original jurisdiction in the United States District Courts over controversies of this kind involving rights to the natural resources and the submerged lands of the Continental Shelf, and defendant shows that the issues here involved can be more appropriately and conveniently heard and determined in such a Court. Defendant accordingly moves that this Court transfer this cause to a United States District Court in Louisiana for trial.

WHEREFORE, defendant prays that this cause be transferred to a United States District Court in Louisiana for hearing and trial concerning the issues raised by the complaint and by the answer herein. In the event that this Court asserts and exercises original jurisdiction in this cause, then Louisiana prays that after due hearing and trial its defenses set forth in the above and foregoing answer be sustained and the demand of the plaintiff be rejected; that Louisiana be decreed to be the owner of the subsoil, seabed and mineral resources of the Continental Shelf lying seaward of the shores of the State in the Gulf of Mexico; that plaintiff be enjoined from trespassing thereon or interfering with the rights of Louisiana thereto and requiring the United States to account for all minerals and other things of value taken therefrom and for all sums of money received therefrom, including all lease bonuses, rentals, royalties and other payments.

Defendant further prays for all orders and decrees necessary and proper in the premises and for full, general and equitable relief.

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PROOF OF SERVICE

I, _____, one of the attorneys for the State of Louisiana, defendant herein, and a member of the Bar of the Supreme Court of the United States, certify that on the _____ day of _____, 1956, I served copies of the foregoing Answer of the State of Louisiana, by leaving copies thereof at the offices of the Attorney General and of the Solicitor General of the United States, respectively, in the Department of Justice Building, Washington, D. C.

_____

Of Counsel